IN THE HIGH COURT OF BOMBAY AT GOA.

CRIMINAL WRIT PETITION NO. 29 OF 2003.

Mr. Kailash Bhagat,
Central Jail, Aguada. ... Petitioner.

Versus

1. State of Goa through
   The Chief Secretary,
   Panaji.
2. The Inspector General of
   Prisons, Collector, North
   Goa, Panaji.
3. The Superintendent of
   Prisons, Central Jail,
   Aguada. ... Respondents.

Mrs. A.A. Desai, Advocate for the Petitioner.

Mrs. W. Coutinho, Additional Public Prosecutor for the Respondents.

Coram : P.V. HARDAS, J.

Date : 29th November 2003.

ORAL JUDGMENT.

Rule. Rule made returnable forthwith. By consent of the parties, taken up for final hearing. Heard Mrs. Desai, the learned counsel for the petitioner and Mrs. Coutinho, the learned Additional Public Prosecutor for the respondents.

2. This is a second round of litigation at the behest of the petitioner. By Judgment, dated 30th August 2002, this Court had directed the respondents herein to decide the application for parole within 8 weeks. The learned counsel for the petitioner states that, in pursuance to the Order of this Court, the

parole application filed by the petitioner came to be rejected. Thereafter, the petitioner again filed another parole application, dated 15th April 2003. The respondents, as per the records which are made available, had issued a letter in June 2003 to the Police, at Bihar, calling for an inquiry report. In response to that letter, the police report was not sent and, therefore, the respondents were constrained to issue a reminder, dated 1st July 2003. Despite the reminder, till today the respondents have not received the report from the Director General of Police, Bihar. It is extremely unfortunate that due to the careless attitude on the part of the authorities that the parole application is pending for nearly 7 months. The respondents are, therefore, directed to dispose of the parole application within 6 weeks from today and, if necessary, send a copy of this Judgment to the Director General of Police, Bihar, to ensure prompt receipt of the police report.

3. In respect of the prayer of the petitioner for being released on temporary bail for a period of 90 days, the same cannot be considered, in view of the Judgment of the Supreme Court in **State of U.P. v. Atique Ahmad**, (2002) 9 S.C.C. 401, wherein the Supreme Court has held that short term bail on medical ground cannot be granted.

4. It is unfortunate that the petitioner, who is stated to be suffering from H.I.V. positive is made to languish awaiting the decision of his parole application. This Court expresses its anguish about the long pendency of the application and hopes that the authorities concerned shall promptly decide the application. The respondent no. 3 is also directed to ensure that proper medical facilities are extended to the petitioner in the jail for treatment of the disease with which he is suffering.

5. Rule made absolute on the above terms with no order as to costs. Certified copy expedited.

(P.V. HARDAS)
JUDGE.

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